

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LINDA MCDONALD,

Plaintiff,

v.

WELLS FARGO BANK, N.A.,

Defendant.

Case No.: CV 13-02334-KAW

ORDER REGARDING PLAINTIFF'S
OPPOSITION TO DEFENDANT'S
MOTION TO DISMISS

Plaintiff Linda McDonald is proceeding in this case without an attorney. Defendant filed a motion to dismiss on May 30, 2013. Plaintiff did not file an opposition to the motion to dismiss, and the Court ordered her to file an opposition and show cause why the case should not be dismissed for failure to prosecute. Plaintiff did not file a proper response to the order to show cause. On August 23, 2013, the Court ordered Plaintiff to file an opposition brief responding to the arguments raised in Defendant's motion to dismiss and to also file a response to the Court's Order to Show Cause explaining her failure to file an opposition when it was originally due in June, and why her case should not be dismissed for failing to file an opposition. (Dkt. No. 16.) On August 26, 2013, the order was served on Plaintiff by U.S. Mail, such that Plaintiff's last day to respond was September 12, 2013. (Certificate of Service, Dkt. No. 16-1.)

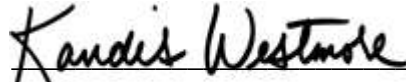
On September 13, 2013, Plaintiff filed a document entitled "Plaintiffs'[sic] Response to Show Cause for Failure to File Timely Opposition and Amended Opposition to Defendants [sic] Motion to Dismiss with Points and Authorities in Support Thereof." (Dkt. No. 18.) Despite the filing's caption, Plaintiff did not address why she failed to file an opposition. Pro se litigants are

1 held to a less stringent pleadings standard, and so Plaintiff's filing will be considered an
2 opposition to Wells Fargo's motion to dismiss. The Court notes that while it was filed a day late,
3 the document was dated September 9, 2013, and so will excuse Plaintiff's untimeliness in this
4 instance only. All future filings must be filed with the Court by the date due. Failure to timely
5 file may result in the granting of the opposing party's motion or other adverse action against
6 Plaintiff, including dismissal of the case.

7 Defendant Wells Fargo shall have seven (7) days from the date of this order to file its
8 reply to Plaintiff's Opposition to Defendant's motion to dismiss.¹

9 IT IS SO ORDERED.

10 Date: September 20, 2013


KANDIS A. WESTMORE
United States Magistrate Judge

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¹ On September 17, 2013, Wells Fargo has filed a document entitled "Wells Fargo's Response to Plaintiff's 'Amended Opposition'." (Dkt. No. 19.) Based on its content, the Court does not consider it a reply to Plaintiff's Opposition.